

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 298 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

A K SHAH

Versus

SECRETARY OR HIS SUCCESSOR

Appearance:

MR DS VASAVADA for Petitioners
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/10/1999

ORAL JUDGEMENT

Heard the learned counsel for the petitioners.

2. The petitioner No.2 with the aid of the trade union, Gujarat Electricity Board Engineers' Association, by this petition is praying for direction to the respondent to grant him the higher grade w.e.f. 1-8-1972 as provided under the scheme GSO 253 read with Establishment Circulars No. 7 and 8.

3. Under GS0 253 read with Establishment Circulars No. 7 and 8, the Board introduced a scheme of giving of the higher grade to its officers so that they may not face the stagnation in their existing pay scale. This scheme postulates giving of the higher grade on completion of nine years services in the category concerned and subject to the suitability of an officer for promotion. So three things are to be fulfilled by an officer before he could have been granted the benefit of higher pay scale as provided in the aforesaid GSO i.e. he has completed nine years services in the category concerned, he is eligible for promotion to the next higher post and he is found to be suitable for this higher pay grade on the criteria of seniority-cum-merit.

4. In this case, I find from the reply of the respondents that the petitioner's service record was not good and as a result thereof he was not found suitable for this higher grade on the criteria of seniority-cum-merit w.e.f. 1-8-1972. It is not in dispute that the petitioner has been granted the benefit of higher grade from 12-2-1983 but his demand from the deemed date for the adversity in his service record has rightly been not granted to which no exception can be taken. There are adverse remarks in his Annual Appraisal Performance Report for the period from 9-10-1967 to 31-8-1968, and for the years 1969-70, 1970-71 and 1971-72. These adverse remarks were communicated to the petitioner in time but he has not challenged those adverse remarks and the same attained finality. In the presence of these adversities in the service record of the petitioner, I do not find any illegality in the action of the respondent to deny the higher grade to the petitioner w.e.f. 1-8-1972. It has rightly been contended by the respondents that an officer can not get automatically the benefit of higher pay grade on completion of nine years services in the category concerned. His service record should have been average at least and then only he will get it which is not the case here.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.
